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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/739,207

12/19/2003

Adolph Mondry

9870

47779

7590

06/11/2009

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EXAMINER

NATALINI, JEFF WILLIAM

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/739,207

**Applicant(s)**

MONDRY, ADOLPH

**Examiner**

JEFF NATALINI

**Art Unit**

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 25 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **FINAL ACTION**

1. This is in response to amendments/claims submitted 4/4/08, 4/7/08, 4/30/08, 5/10/08, 7/25/08, 9/15/08, 10/2/08, and 3/25/09. As pointed out in the previous correspondence of non-compliance (7/16/08), deletions need to be struck through and additions to the claims need to be underlines (this was also in the non-final action of 3/14/08- see MPEP 714). Also, in making it harder to follow what was actually amended/non-amended, there is no arguments or comments filed with any of the amendments. This would explain what the applicant did to correct the previous rejections/objections and how they have been overcome. It is clear that that both independent claims are presently only method claims (although the independent claims have been changed from 1 and 11 to 1 and 10) which overcomes the 35 USC 101 rejection in the previous office action 3/14/08. It is again recommended that applicant consider getting legal representation or at least consulting with an attorney to better construct the claim language.

### ***Claim Objections***

2. Claims 1-19 objected to because of the following informalities:

As explained in the non-final action of 7/16/08, "said" or "the" should only be used once the limitation or structure has been identified in the claim. For example, in claim 1, "said positive electrode" on line 11, as well as "the smallest level" and "the largest level" on lines 13. Please go through the claims and only use "said" or "the" after the limitation/structure has been introduced. A claim must be only one sentence, please

correct claims 1 and 10 accordingly (use commas or semicolons instead of periods in the claims, so the claim is only one sentence long).

In regard to claims 2-9, "Said method of claim 1", should be replaced with "The method of claim 1".

In regard to claims 6 and 15, "a predetermined said negative electrode voltage", should be "a predetermined negative electrode voltage", because it is a different negative electrode voltage that was previously defined, so "said" should not be used as this is the first time "a predetermined negative electrode voltage" has been introduced. This also needs to be corrected for the "positive electrode voltage". A similar problem is seen with regard to 'a first battery discharge' and 'a first negative electrode voltage' in claims 7 and 16.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Again as it is hard to tell exactly what words, phrases are new to the claims, and what words phrases have been deleted from the claims. The examiner will try to go through the claim language as a whole to point out the indefinite pieces of the claim language.

In regard to claims 1 and 10, "said device" which is said to be activated from the switch (lines 8-9 in both claim 1 and 10) and also activated by a battery (line 11 in claims 1 and line 12 in claim 10) is indefinite, as it is unclear how this device is connected with the ECU, what the device's purpose is in the claim language, and what purpose does it have in the method, as it's activated/deactivated.

Also the paragraph stating (this paragraph is copied from claim 1, although claim 10 is very similar), "delivering said largest initial ('initial' should be replaced by 'leveled' as this is how it was previously introduced) positive electrode voltage while repeatedly sequencing through the ('the' should be replaced by 'a' as this is a first introduction) plurality of sequential said ('said' should be deleted similar to objections above of claims 6-15) positive electrode voltage beginning with said smallest voltage ('level' should be added here as that's how it was introduced previously) and proceeding to an adjacent voltage in said sequence ('sequence' should be deleted and replaced with 'sequencing' as this is how it was previously introduced) after a predetermined time interval has elapsed until said (should be 'a' as this has not been introduced yet, only "a desired negative electrode voltage" has been, but a negative electrode voltage has not been introduced yet) negative electrode voltage attains said desired voltage ('desired voltage' should be replaced with 'desired negative electrode voltage' as this is how it was previously introduced) at which point said positive electrode voltage is selected to occupy a base state".

In the above paragraph of the claim language it is unclear "how the sequencing proceeds to 'an adjacent voltage' after a predetermined time interval has elapsed until a

negative electrode voltage attains said desired negative electrode voltage", because it seems the sequencing would get to an adjacent voltage (adjacent to what? the smallest voltage level or the largest voltage level) after a predetermined time, but during this 'predetermined time' the negative electrode voltage may or may not have attained the desired negative electrode voltage", so the sequence can't both go through to an adjacent voltage after a predetermined time interval has elapsed 'and' until a negative electrode voltage attains said desired negative electrode voltage. Also, it is not clear how the selected voltage occupies a stable base state. Does this mean the "selected voltage" is stable/constant, because occupying a state? The specification does little to clear up these inconsistencies within the claim language.

In regard to claims 5, 9, 14, and 18, (similar to previous claims 6, 10, 14, and 18) 'positive electrode voltage' and 'voltage levels' can not be connected/interconnected. Devices are connected to other devices, a voltage cannot be connected to a logic device. Voltage for example would be input/delivered to a structure/logic device.

In regard to claim 8 and 17, it is unclear what "application" refers to and how that would vary a range of negative electrode values.

Pertinent prior art includes:

Konishi et al. (US Publication 20060087248), discloses a cathode field emission wherein the output voltage of the anode is kept constant.

Andricacos et al. (US Publication 20040077140) discloses wherein current is applied to the positive and negative electrodes, controlling a constant voltage output.

Mahoney et al. (6504294) discloses in col 15 lines 40-50, discloses wherein in a current control mode, the anode was controlled such that the anode voltage would stabilize.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFF NATALINI whose telephone number is (571)272-2266. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Gutierrez/  
Supervisory Patent Examiner, Art Unit 2831

/Jeff Natalini/  
Examiner, Art Unit 2831